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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,947	12/26/2001	Hsuan-Yin Lan-Hargest	12938-003002	8464

28425 7590 04/17/2002

INTELLECUTAL PROPERTY DEPARTMENT
BASF CORPORATION
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[REDACTED] EXAMINER

ZUCKER, PAUL A

ART UNIT	PAPER NUMBER
1621	6

DATE MAILED: 04/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/025,947	LAN-HARGEST ET AL.	
	Examiner	Art Unit	
	Paul A. Zucker	1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) 6, 9-11, 14, 15, 18-21, 23, 24 and 27-79 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5,7,8,12,13,16,17,22,25 and 26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-79 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> .	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Election/Restrictions

1. The examiner accepts applicant's election of 7,7-diphenyl-2, 4, 6-heptatrienoic acid for examination. This specie reads on claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25 and 26. Examination has been limited to the elected specie and the claims readable thereon since no generic claim has been found allowable.

Information Disclosure Statement

2. All references have been considered by the examiner with the exception of the reference designated "FJ" in which 4 blank sheets appeared to replace page 1616. Reference "FJ" could not, therefore, be properly considered.

Specification

3. The abstract of the disclosure is objected to because it simply summarizes what is already known in the art. The abstract should concisely state the invention and its contribution to the art. A revised abstract on a separate page is required. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

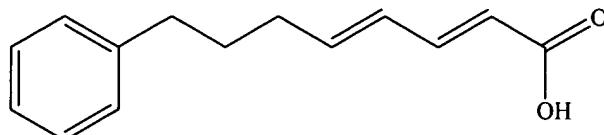
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1623

4. Claims 1-5, 7, 8,12,13,16, 17, 22, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Patel et al (Journal of Organic Chemistry 1978, 43(26) pages 5018-5020). Patel discloses (Page 5018, Table 1 at middle of page, entry 3) the synthesis of the elected species 7-phenyl-2,4,6-heptatrienoic acid using palladium catalyzed arylation of conjugated diene (*E,E*)-2,4-pentadienoic acid with (*E*)- β -bromostyrene using the conditions specified in the table and the general procedure outlined (Page 5019, right-hand column, 2nd paragraph under heading "Experimental Section"). Patel thus anticipates the above-enumerated claims. Examiner's note: Applicant's amendment fails to proviso out the previously elected specie.

5. Claims 1-5, 7, 8,12,13,16, 17, 22, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Black et al (US 5,037,813 08-1991). Black discloses (Column 6, lines 30-35) the following compound and its use in the synthesis of pesticides:



Each of the generic and subgeneric claims 1-5, 7, 8,12,13,16, 17, 22, 25 and 26 read on this compound. Black therefore anticipates instant claims 1-5, 7, 8,12,13,16, 17, 22, 25 and 26.

Allowable Subject Matter

6. The following is a statement of reasons for the indication of allowable subject matter: a search of the relevant class and subclass and nonpatent literature produced no art

which either disclosed or rendered obvious the elected specie: 7,7-diphenyl-2, 4, 6-heptatrienoic acid.

Response to Amendment

7. The examiner withdraws the objections to the specification set forth in paragraphs 3 and 4 of the previous Office Action in Paper No 7 in response to Applicant's amendments and remarks.
8. Claims 20 and 21 are held withdrawn from consideration and therefore arguments regarding their prior rejection are moot.
9. The examiner withdraws the rejections of claims 25 and 26 under 35 USC 112, second paragraph, as set forth in paragraph 7 of the previous Office Action in Paper No 7 in response to Applicant's remarks.
10. The rejection of claims 1-5, 7, 8,12,13,16, 17, 22, 25 and 26 under 35 U.S.C. 112, second paragraph set forth in paragraph 5 of the previous Office Action in Paper No 7 are withdrawn in response to Applicant's remarks.
11. The rejection of claims 1-5, 7, 8,12,13,16, 17, 22, 25 and 26 under 35 U.S.C. 102(b) as being anticipated by Patel et al set forth in paragraph 9 of the previous Office Action in Paper No 7 is maintained for the reasons indicated above.
12. Claims 43 is held withdrawn from consideration and therefore arguments regarding its prior rejection are moot.

Conclusion

13. Claims 1-79 are outstanding. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25 and 26 are rejected. Claims 6, 9-11, 14, 15, 18-21, 23, 24 and 27 -79 are held withdrawn from consideration.

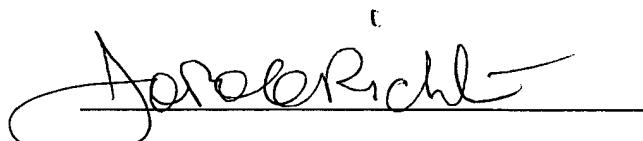
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Zucker whose telephone number is 703-306-0512. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on 703-308-4532. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Paul A. Zucker
Patent Examiner
Technology Center 1600

April 10, 2002

A handwritten signature in black ink, appearing to read "Johann Richter", is enclosed within a thin oval border.

Johann Richter, Ph.D., Esq.
Supervisory Patent Examiner
Technology Center 1600